

House File 602 - Introduced

HOUSE FILE 602
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 36)

A BILL FOR

1 An Act relating to the responsibility for payment of reasonable
2 attorney fees involving the state public defender.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 13B.4, subsection 3, Code 2011, is
2 amended to read as follows:

3 3. The state public defender may contract with persons
4 admitted to practice law in this state and nonprofit
5 organizations employing persons admitted to practice law in
6 this state for the provision of legal services to indigent
7 persons. Such contract may provide that the person or
8 nonprofit organization shall be paid on a basis other than an
9 hourly rate for the person's or nonprofit organization's legal
10 services, including but not limited to a fixed rate per case
11 or fixed rate per month basis.

12 Sec. 2. Section 13B.4, subsection 4, paragraph a, Code 2011,
13 is amended to read as follows:

14 a. The state public defender shall establish fee limitations
15 for particular categories of cases. The fee limitations shall
16 be reviewed at least every three years. In establishing and
17 reviewing the fee limitations, the state public defender shall
18 consider public input during the establishment and review
19 process, and any available information regarding ordinary
20 and customary charges for like services; the number of cases
21 in which legal services to indigents are anticipated; the
22 seriousness of the charge; an appropriate allocation of
23 resources among the types of cases; experience with existing
24 hourly or fixed rates, claims, and fee limitations; and any
25 other factors determined to be relevant.

26 Sec. 3. Section 600A.6B, Code 2011, is amended to read as
27 follows:

28 **600A.6B Payment of attorney fees.**

29 1. A person filing a petition for termination of parental
30 rights under this chapter or the person on whose behalf the
31 petition is filed shall be responsible for the payment of
32 reasonable attorney fees for counsel appointed pursuant to
33 section 600A.6A unless the one of the following conditions
34 exists:

35 a. The person filing the petition is a private child-placing

1 agency as defined in section 238.1 ~~or unless the~~.

2 b. The court determines that the person filing the petition
3 or the person on whose behalf the petition is filed is
4 indigent.

5 c. The person filing the petition or the person on whose
6 behalf the petition is filed is exempt pursuant to subsection
7 3.

8 2. If the person filing the petition is a private
9 child-placing agency as defined in section 238.1 or if the
10 person filing the petition or the person on whose behalf the
11 petition is filed is indigent, the appointed attorney shall be
12 paid reasonable attorney fees as determined by the state public
13 defender.

14 3. If counsel is appointed pursuant to section 600A.6A for
15 hearings or proceedings connected with a request for vacation
16 or appeal of a termination order issued under section 600A.9,
17 subsection 1, paragraph "b", the person who filed the petition
18 for termination of parental rights or the person on whose
19 behalf the petition was filed shall not be responsible for the
20 payment of reasonable attorney fees for such counsel. Instead,
21 the counsel appointed pursuant to section 600A.6A shall be paid
22 reasonable attorney fees as determined by the state public
23 defender and in accordance with subsection 4.

24 ~~3.~~ 4. The state public defender shall review all the claims
25 submitted under this section and shall have the same authority
26 with regard to the payment of these claims as the state public
27 defender has with regard to claims submitted under chapters 13B
28 and 815, including the authority to adopt rules concerning the
29 review and payment of claims submitted.

30 Sec. 4. Section 814.11, subsections 2 and 4, Code 2011, are
31 amended to read as follows:

32 2. a. If the appeal involves an indictable offense or
33 denial of postconviction relief, the appointment shall be made
34 to the state appellate defender unless the state appellate
35 defender notifies the court that the state appellate defender

1 is unable to handle the case.

2 b. If the state appellate defender is unable to handle the
 3 case, the state appellate defender may transfer the case to the
 4 state public defender or to an attorney who has a contract with
 5 the state public defender to handle such appeals. The state
 6 appellate defender shall notify the supreme court of any such
 7 transfer and the responsibility of the state appellate defender
 8 for such appeal shall terminate.

9 c. If the state public defender or attorney who has a
 10 contract with the state public defender, to whom the case was
 11 transferred by the state appellate defender, withdraws from the
 12 case, the court shall appoint an attorney who has a contract
 13 with the state public defender to handle such an appeal.

14 ~~4. If the state appellate defender is unable to handle the~~
 15 ~~case or withdraws from the case, or if the appeal is other~~
 16 ~~than an indictable offense or denial of postconviction relief~~
 17 ~~including a juvenile case in which a petition on appeal is not~~
 18 ~~required or a juvenile case in which the trial attorney has~~
 19 ~~withdrawn from the case, the court shall appoint an attorney~~
 20 ~~who has a contract with the state public defender to handle~~
 21 ~~such an appeal.~~

22 Sec. 5. Section 815.14, Code 2011, is amended to read as
 23 follows:

24 **815.14 Fee for public defender.**

25 When determining the amount of restitution for each case
 26 under section 910.3, the expense of the public defender shall
 27 be include all expenses approved by the state public defender
 28 together with the attorney fees for the public defender
 29 calculated at the same hourly rate of compensation specified
 30 under section 815.7. However, the expense of the attorney fees
 31 for the public defender shall not exceed the fee limitations
 32 established in section 13B.4.

33 EXPLANATION

34 This bill relates to the payment of reasonable attorney
 35 fees for legal services involving the state public defender.

1 The bill provides that legal services for indigent persons
2 contracted through the state public defender may be paid based
3 on other than an hourly rate, including a fixed rate basis.
4 The bill provides for the handling of appeals for indigent
5 persons by the state appellate defender or by transfer of the
6 case to a person under contract with the state public defender.
7 The bill provides that the expenses of the public defender in
8 determining the amount of restitution for a case include all
9 expenses approved by the state public defender together with
10 the attorney fees for the public defender.

11 The bill also specifies an exception to payment of fees for
12 appointed counsel by the person filing or on whose behalf a
13 petition for termination of parental rights is filed. Under
14 the bill, if an order is issued granting the termination of
15 parental rights petition, and an appeal or vacation of the
16 order is requested, the person who filed the petition for
17 termination of parental rights or the person on whose behalf
18 the petition was filed is not responsible for the payment of
19 reasonable attorney fees for appointed counsel. Instead,
20 appointed counsel is to be paid reasonable attorney fees as
21 determined by the state public defender and in accordance with
22 the process for payment of such claims.